

Appl. No. 09/804,673
Response Dated July 28, 2005
Reply to Office Action of May 25, 2005

REMARKS

Claims 1-33 stand in this application. Independent claims 1, 15, 20, 22, 27, 30 and 32 have been amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested

At page 3, paragraph 3 of the Office Action claims 1-4, 6-8, 11, 13-16, 18, 19-24, and 28-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Number (USPN) 5940504 (Griswold) in view of United States Patent Application Number (USPAN) 2001/0054026 (Choate). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Although Applicant disagrees with the broad ground of rejections stated in the Office Action, Applicant has amended independent claims 1, 15, 20, 22, 27, 30 and 32 to further prosecution on the merits. Applicant submits that the amendments merely clarify, either expressly or impliedly, what was already present in the claims.

Claims 1-4, 6-8, 11, 13-16, 18, 19-24, and 28-33 are patentable and non-obvious over the Griswold reference in view of the Choate reference, whether taken alone or in combination, since the cited references fail to disclose all the language recited in claims 1-4, 6-8, 11, 13-16, 18, 19-24, and 28-33. For example, claim 1 recites:

 sending a time interval to said monitored program;
 measuring a usage time for said monitored program using said time interval.

The Griswold reference and the Choate reference fail to disclose at least this language of independent claim 1.

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The Griswold reference fails to disclose all the recited language of claim 1. As correctly stated in the Office Action, the Griswold reference fails to disclose "sending a time interval to said monitored program" as recited in claim 1. Office Action, Page 3, Paragraph 3.

The Choate reference also fails to disclose all the recited language of claim 1. According to the Office Action, the missing language of claim 1 not disclosed by the Griswold reference is shown by the Choate reference at paragraphs [0021] and [0031].

At paragraph [0021], in relevant part, the Choate reference states:

In this exemplary embodiment, customers 20 obtain from Application Key Module 21 and Application Key to activate the Application.

At paragraph [0031], in relevant part, the Choate reference states:

A customer desiring to download, stream, or locally play the content file purchases an Application Key from an Application Key Server to unlock the content file, if required. The content file owner can designate a price for the Application Key based on the level of access desired by the customer. For example, a customer may wish to purchase unlimited access to the content file or pay on a per-stream or play basis.

As indicated above, the Choate reference arguably allows a customer to activate an application by purchasing an Application Key. The customer may "purchase unlimited access to the content file or pay on a per-stream or play basis." The Choate reference, however, does not discuss using a time interval to activate the application. Rather, each example given in paragraph [00031] seems to indicate that a time interval is not contemplated for purchase of the Application Key. For example, purchasing unlimited content would clearly not need an associated time interval. In another example, paying on a per-stream or play basis would also not need an associated time interval since

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payment would be predicated upon event based criteria rather than any time based criteria.

Consequently, Applicant respectfully submits that independent claim 1 is patentable and non-obvious over the Griswold reference in view of the Choate reference since the cited references in combination fail to disclose all the language recited in claim 1. Although Applicant believes that claim 1 is patentable and non-obvious as previously presented, Applicant has amended claim 1 to further clarify at least one of the patentable features of the claimed subject matter. For example, claim 1 as amended recites "measuring a usage time for said monitored program using said time interval." Claim 1 as amended further clarifies that the communicated time interval is used to measure usage time. Since the previously presented language of claim 1 is not disclosed by the cited references as previously discussed, it follows that the new amended language is even more patentably distinct from the cited references.

For at least the reasons given above, independent claim 1 is non-obvious and represents patentable subject matter in view of the cited references, whether taken alone or in combination. Furthermore, claims 2-6 depend from claim 1, and therefore contain additional features that further distinguish these claims from the cited references. Accordingly, removal of the obviousness rejection with respect to claims 1-6 is respectfully requested.

Independent claims 15, 20, 22, 27, 30 and 32 recite features similar to those recited in independent claim 1. Therefore, for reasons analogous to those presented with respect to claim 1, Applicant respectfully submits that claims 15, 20, 22, 27, 30 and 32, and all claims directly or indirectly depending therefrom which contain additional

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features that further distinguish these claims from the cited references, are not obvious and are patentable over the cited references. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to these claims.

At page 5, paragraph 1 of the Office Action claims 5 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Griswold in view of Choate and USPN 5291596 (Mita). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Claims 5 and 17 are patentable and non-obvious over the Griswold reference in view of the Choate reference and the Mita reference, whether taken alone or in combination, since the cited references fail to disclose all the language recited in claims 5 and 17. Claims 5 and 17 depend from claims 1 and 15, respectively. The Griswold reference and the Choate reference fail to disclose the missing language of claims 1 and 15 as previously discussed. The Mita reference also fails to disclose the missing language of claims 1 and 15. Therefore claims 5 and 17 represent patentable subject matter over the cited references for at least the same reasons given for claims 1 and 15. Furthermore, claims 5 and 17 are dependent claims and therefore contain additional features that further distinguish these claims from the cited references. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to these claims.

At page 5, paragraph 2 of the Office Action claims 9, 10, 25 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Griswold in view of Choate and USPN 2001/0052013 (Munguia). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

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Claims 9, 10, 25 and 26 are patentable and non-obvious over the Griswold reference in view of the Choate reference and the Munguia reference, whether taken alone or in combination, since the cited references fail to disclose all the language recited in claims 9, 10, 25 and 26. Claims 9, 10, 25 and 26 depend from claims 1 or 22. The Griswold reference and the Choate reference fail to disclose the missing language of claims 1 and 22 as previously discussed. The Munguia reference also fails to disclose the missing language of claims 1 and 22. Therefore claims 9, 10, 25 and 26 represent patentable subject matter over the cited references for at least the same reasons given for claims 1 and 22. Furthermore, claims 9, 10, 25 and 26 are dependent claims and therefore contain additional features that further distinguish these claims from the cited references. Accordingly, Applicant respectfully requests removal of the obviousness rejection with respect to these claims.

At page 6, paragraph 1 of the Office Action claims 12 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Griswold in view of USPN 6151652 (Reeder). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Applicants submit that claims 12 and 27 are non-obvious and patentable over Griswold in view of Reeder, because these references, whether taken alone or in combination, fail to disclose each and every element recited in claims 12 and 27 and respectfully request the withdrawal of the obviousness rejection with respect thereto. For example, the Office Action states that, at col. 14, line 54, the Reeder reference discloses "displaying the amount of usage to a user." Applicants respectfully submit that at col. 14, lines 53-54, the Reeder reference discloses "display totalized charges to the user, or to

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print them out, on request via the input device." This is different, however, from the language recited in claim 12:

reporting said usage time to a user corresponding to said monitored program.

Reporting "usage time" of a monitored program to a user corresponding to the monitored program is significantly different from merely displaying "totalized charges" to a user indicating the total amount due for a bill. Therefore, claim 12 is non-obvious and patentable over Griswold in view of Reeder, whether taken alone or in combination.

Claim 27 recites features similar to those in claim 12. Therefore, for reasons analogous to those presented above with respect to claim 12, claim 27 also is non-obvious and patentable over Griswold in view of Reeder, whether taken alone or in combination.

For at least the above reasons, Applicant submits that claims 1-33 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims

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that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

Applicants do not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicants hereby reserve the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-33 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-3387 to discuss any matter concerning this application.

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The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

s/John F. Kacvinsky/s

John F. Kacvinsky, Reg. No. 40,040
Under 37 CFR 1.34(a)

I hereby certify that this correspondence is being facsimile transmitted to the United Patent and Trademark Office at (571) 273-8300 on: 7/28/05.

RUB
Rachael Brown

7/28/05
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